

House File 218 - Introduced

HOUSE FILE 218

BY HEATON

A BILL FOR

- 1 An Act relating to telehealth and professional licensure,
- 2 insurance coverage, and reimbursement under the medical
- 3 assistance program.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds and recognizes all of the following:

3 1. Access to health care facilities and health care
4 professionals is critically important to the citizens of Iowa.

5 2. Telehealth uses electronic technology to overcome a
6 geographic distance between patients and health care providers
7 for the purpose of intervention, clinical management, or
8 assessing, monitoring, or educating patients.

9 3. The provision of telehealth results in demonstrated
10 cost-effectiveness, improvements in disease management,
11 and improved patient outcomes and studies by the American
12 telemedicine association and others have demonstrated
13 significant reductions in hospitalizations and otherwise
14 necessary medical care as a result of telehealth intervention.

15 4. Geography, weather, availability of specialists,
16 transportation, and other factors can create barriers to
17 accessing appropriate health care, including behavioral health
18 care, and one way to provide, ensure, or enhance access to
19 care given these barriers is through the appropriate use of
20 technology to allow health care consumers access to qualified
21 health care professionals.

22 5. Additionally, the utilization of telehealth will
23 further the maintenance and improvement of the physical
24 and economic health of patients in medically underserved
25 communities by retaining the source of health care in local
26 areas, strengthening the health infrastructure, and preserving
27 health-care-related jobs.

28 6. A need exists in this state to embrace efforts that
29 will encourage health insurers and health care professionals
30 to support the use of telehealth and that will also encourage
31 all state agencies to evaluate and amend their policies and
32 rules to remove any regulatory barriers prohibiting the use of
33 telehealth.

34 7. Recognition exists that the full potential of delivering
35 health care services through telehealth cannot be realized

1 without the assurance of payment and the resolution of existing
2 legal and policy barriers to such payment.

3 8. The purpose of the Iowa telehealth Act is to provide a
4 framework for health care professionals to utilize in providing
5 telehealth to Iowans in a manner that provides efficient and
6 effective access to quality health care.

7 Sec. 2. NEW SECTION. 147B.1 Title.

8 This chapter shall be known and may be cited as the "*Iowa*
9 *Telehealth Act*".

10 Sec. 3. NEW SECTION. 147B.2 Definitions.

11 As used in this chapter, unless the context otherwise
12 requires:

13 1. "*Distant site*" means the site at which a health care
14 professional delivering the service is located at the time the
15 telehealth service is provided.

16 2. "*Health care professional*" means a person who is
17 licensed, certified, or otherwise authorized under chapter
18 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153,
19 154, 154B, 154C, 154D, 154F, or 155A to provide health care in
20 the ordinary course of business or practice of a profession or
21 in an approved education or training program, as long as the
22 person is operating within the person's professional scope of
23 practice.

24 3. "*Remote patient monitoring*" means using telehealth to
25 enable the health care professional to monitor and manage a
26 patient's medical, functional, and environmental needs if such
27 needs can be appropriately met through telehealth intervention.

28 4. "*Store-and-forward telehealth*" means the use of
29 asynchronous communications between a patient and a health care
30 professional or between a referring health care professional
31 and a medical specialist at a distant site, supported by
32 telecommunications technology for the purpose of diagnosis,
33 consultation, treatment, or therapeutic assistance in the
34 care of the patient, including the transferring of medical
35 data from one site to another through the use of a camera

1 or similar device that records or stores an image that is
2 sent or forwarded via telecommunications to another site for
3 consultation.

4 5. "*Telehealth*" means the use of real-time, interactive
5 audio or video telecommunications or electronic technology,
6 remote patient monitoring, or store-and-forward telehealth by
7 a health care professional to deliver health care services
8 to a patient within the scope of practice of the health care
9 professional, for the purposes of diagnosis, consultation,
10 treatment, transfer of medical data, or exchange of medical
11 education information. "*Telehealth*" does not include an
12 audio-only telephone call, electronic mail message, or
13 facsimile transmission.

14 Sec. 4. NEW SECTION. 147.163 **Telehealth.**

15 1. A health care professional licensed by a board created
16 under this chapter, as appropriate to the scope of practice
17 of the profession, may employ the technology of telehealth by
18 applying telehealth within the professional's scope of practice
19 or by using telehealth technology under the direction and
20 supervision of another health care professional who is using
21 telehealth technology within the supervising professional's
22 scope of practice. A health care professional's employment
23 of telehealth acting under the direction and supervision of
24 another health care professional who is using telehealth within
25 that health care professional's scope of practice shall not be
26 interpreted as practicing the supervising professional's health
27 care profession without a license. However, any health care
28 professional employing telehealth must hold a current valid
29 license to practice the respective profession in the state and
30 be trained, educated, and knowledgeable regarding the health
31 care service provided and technology used and shall not perform
32 duties for which the professional does not have sufficient
33 training, education, and knowledge. Failure to have sufficient
34 training, education, and knowledge is grounds for disciplinary
35 action by the respective board.

1 2. The applicable board that exercises regulatory or
2 rulemaking authority over an affected profession under this
3 chapter, or the department in the absence of an applicable
4 board, shall adopt rules to administer this chapter.

5 3. The standard of care for a professional using telehealth
6 to provide health care services to a patient shall be the same
7 as the standard of care required of that professional for the
8 provision of in-person health care services to a patient.

9 4. The type of setting where telehealth is provided for the
10 patient or by the health care professional shall not be limited
11 if the delivery of health care services is appropriately
12 provided through telehealth.

13 5. This chapter shall not be construed to conflict with
14 or supersede the provisions of chapter 147A, 148, 148A, 148B,
15 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D,
16 154F, or 155A relating to the licensure of the respective
17 health care professional.

18 6. This chapter shall not be construed to alter the scope
19 of practice of any health care professional, authorize the
20 delivery of health care services in a setting or manner not
21 otherwise authorized by law, or limit a patient's right to
22 choose in-person contact with a health care professional for
23 the delivery of health care services for which telehealth is
24 available.

25 7. If a health care professional provides services pursuant
26 to and in compliance with section 135.24 via telehealth in
27 accordance with this chapter, the provisions of section 135.24
28 including those relating to immunity from civil liability shall
29 apply to such health care professional.

30 Sec. 5. NEW SECTION. **514C.30 Telehealth.**

31 1. Notwithstanding the uniformity of treatment requirements
32 of section 514C.6, a contract, policy, or plan providing for
33 third-party payment or prepayment for health, medical, or
34 surgical coverage benefits shall not deny coverage on the basis
35 that the services are provided as telehealth if the services

1 would be covered if provided and shall not require in-person
2 contact between a health care professional and a patient as a
3 prerequisite for payment for services appropriately provided
4 through telehealth in accordance with generally accepted health
5 care practices and standards prevailing in the applicable
6 professional community at the time the services are provided.
7 Health care services provided through in-person consultations
8 or through telehealth shall be treated as equivalent services
9 for the purposes of coverage.

10 2. This section shall not be interpreted as preventing
11 a third-party payment provider from imposing deductibles or
12 copayment or coinsurance requirements for a health care service
13 provided through telehealth if the deductible, copayment, or
14 coinsurance does not exceed the deductible, copayment, or
15 coinsurance applicable to in-person consultation for the same
16 health care service. A third-party payment provider shall not
17 impose annual or lifetime maximums on coverage of telehealth
18 unless the annual or lifetime maximum applies in the aggregate
19 to all items and services under the contract, policy, or plan.

20 3. This section shall not be interpreted to require a
21 third-party payment provider to provide reimbursement for
22 a health care service that is not a covered benefit or to
23 reimburse a health care professional who is not a covered
24 provider under the contract, policy, or plan.

25 4. This section shall not be interpreted to preclude a
26 third-party payment provider from performing utilization review
27 to determine the appropriateness of telehealth in the delivery
28 of health care services if the determination is made in the
29 same manner as those regarding the same health care service
30 when delivered in person.

31 5. This section shall not be interpreted to authorize a
32 third-party payment provider to require the use of telehealth
33 when the health care professional determines use of telehealth
34 is not appropriate.

35 6. The provisions of this section shall apply to all of the

1 following classes of third-party payment provider contracts,
2 policies, or plans delivered, issued for delivery, continued,
3 or renewed in this state on or after January 1, 2016:

4 *a.* Individual or group accident and sickness insurance
5 providing coverage on an expense-incurred basis.

6 *b.* An individual or group hospital or medical service
7 contract issued pursuant to chapter 509, 514, or 514A.

8 *c.* An individual or group health maintenance organization
9 contract regulated under chapter 514B.

10 *d.* An individual or group Medicare supplemental policy,
11 unless coverage pursuant to such policy is preempted by federal
12 law.

13 *e.* A plan established pursuant to chapter 509A for public
14 employees.

15 7. This section shall not apply to accident-only, specified
16 disease, short-term hospital or medical, hospital confinement
17 indemnity, credit, dental, vision, long-term care, basic
18 hospital, and medical-surgical expense coverage as defined
19 by the commissioner, disability income insurance coverage,
20 coverage issued as a supplement to liability insurance,
21 workers' compensation or similar insurance, or automobile
22 medical payment insurance.

23 8. The commissioner of insurance shall adopt rules pursuant
24 to chapter 17A as necessary to administer this section.

25 9. For the purposes of this section, "*health care*
26 *professional*" and "*telehealth*" mean as defined in section
27 147B.2, as enacted in this Act.

28 Sec. 6. MEDICAID PROGRAM — REIMBURSEMENT FOR
29 TELEHEALTH. The department of human services shall adopt
30 rules to provide for coverage of telehealth under the
31 Medicaid program. The rules shall provide that in-person
32 contact between a health care professional and a patient
33 is not required as a prerequisite for payment for services
34 appropriately provided through telehealth in accordance
35 with generally accepted health care practices and standards

1 prevailing in the applicable professional community at
 2 the time the services are provided. Health care services
 3 provided through in-person consultations or through telehealth
 4 shall be treated as equivalent services for the purposes
 5 of reimbursement. As used in this section, "health care
 6 professional" and "telehealth" mean as defined in section
 7 147B.2, as enacted in this Act.

8 Sec. 7. STUDY ON USE OF TELEHEALTH. The department of
 9 public health, in collaboration with the department of human
 10 services and the insurance division of the department of
 11 commerce, shall convene and conduct a study regarding options
 12 for implementing telehealth and telehealth coverage and
 13 reimbursement. The department of public health shall submit
 14 a final report of its findings and recommendations to the
 15 governor and the general assembly by December 15, 2015.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
 18 the explanation's substance by the members of the general assembly.

19 This bill relates to telehealth and creates the Iowa
 20 telehealth Act. The bill provides legislative findings
 21 and purposes regarding the use of telehealth and provides
 22 definitions.

23 The bill provides that a health care professional licensed
 24 by a professional licensing board under Code chapter 147
 25 (health-related professions), as appropriate to the scope
 26 of practice of the profession, may employ the technology of
 27 telehealth by applying telehealth within the professional's
 28 scope of practice or by employing telehealth technology
 29 under the direction and supervision of another health care
 30 professional who is using telehealth technology within the
 31 supervising professional's scope of practice. A health care
 32 professional's employment of telehealth technology under the
 33 direction and supervision of another health care professional
 34 who is acting within that health care professional's scope of
 35 practice shall not be interpreted as practicing the supervising

1 professional's health care profession without a license. A
2 health care professional employing telehealth technology must
3 hold a current valid license and must be trained, educated,
4 and knowledgeable regarding the health care service provided
5 and technology used and is prohibited from performing duties
6 for which the professional does not have sufficient training,
7 education, and knowledge. Failure to have sufficient training,
8 education, and knowledge is grounds for disciplinary action by
9 the respective board.

10 The bill directs the appropriate board that exercises
11 regulatory or rulemaking authority over a profession within
12 whose scope of practice telehealth may be employed or the
13 department, to adopt rules, to administer the requirements
14 relating to the provision of telehealth by such professionals.

15 The bill provides that the standard of care for a
16 professional, whether using telehealth or providing the care
17 in person, is the same. The type of setting where telehealth
18 is provided for the patient or by the health care professional
19 is not to be limited if the delivery of health care services is
20 appropriately provided through telehealth. The bill is not to
21 be construed to conflict with or supersede the provisions of
22 the health care professionals licensing chapters relating to
23 the licensure of the respective health care professional or to
24 alter the scope of practice of any health care professional,
25 authorize the delivery of health care services in a setting
26 or manner not otherwise authorized by law, or limit a
27 patient's right to choose in-person contact with a health care
28 professional for the delivery of health care services for which
29 telehealth is available. The bill also provides that if a
30 health care professional provides services pursuant to and in
31 compliance with Code section 135.24 relating to the volunteer
32 health care provider program, via telehealth, the provisions of
33 Code section 135.24 including those relating to immunity from
34 civil liability shall apply to such health care professional.

35 The bill provides that beginning January 1, 2016, a

1 contract, policy, or plan providing for third-party payment or
2 prepayment for health, medical, or surgical coverage benefits
3 shall not deny coverage on the basis that the services are
4 provided via telehealth if the services would be covered if
5 provided in person and shall not require in-person contact
6 between a health care professional and a patient as a
7 prerequisite for payment for services appropriately provided
8 through telehealth in accordance with generally accepted health
9 care practices and standards prevailing in the applicable
10 professional community at the time the services are provided.
11 Health care services provided through in-person consultations
12 or through telehealth shall be treated as equivalent services
13 for the purposes of coverage.

14 The provision is not to be interpreted as preventing a
15 third-party payment provider from imposing deductibles or
16 copayment or coinsurance requirements for a health care service
17 provided through telehealth if the deductible, copayment, or
18 coinsurance does not exceed the deductible, copayment, or
19 coinsurance applicable to an in-person consultation for the
20 same health care service. The bill provides that a third-party
21 payment provider shall not impose annual or lifetime maximums
22 on coverage of telehealth unless the annual or lifetime maximum
23 applies in the aggregate to all items and services under the
24 contract, policy, or plan.

25 The bill provides that the Code section is not to be
26 interpreted to require a third-party payment provider to
27 provide reimbursement for a health care service that is not
28 a covered benefit or to reimburse a health care professional
29 who is not a covered provider under the contract, policy,
30 or plan; to preclude a third-party payment provider from
31 performing utilization review to determine the appropriateness
32 of telehealth in the delivery of health care services if the
33 determination is made in the same manner as those regarding
34 the same health care service when delivered in person; or to
35 authorize a third-party payment provider to require the use of

1 telehealth when the health care professional determines use of
2 telehealth is not appropriate.

3 The Code section applies to individual or group accident and
4 sickness insurance providing coverage on an expense-incurred
5 basis; an individual or group hospital or medical service
6 contract issued pursuant to Code chapter 509, 514, or 514A; an
7 individual or group health maintenance organization contract
8 regulated under Code chapter 514B; an individual or group
9 Medicare supplemental policy, unless coverage pursuant to such
10 policy is preempted by federal law; and a plan established
11 pursuant to Code chapter 509A for public employees. The
12 provision does not apply to accident-only, specified disease,
13 short-term hospital or medical, hospital confinement indemnity,
14 credit, dental, vision, long-term care, basic hospital,
15 and medical-surgical expense coverage as defined by the
16 commissioner, disability income insurance coverage, coverage
17 issued as a supplement to liability insurance, workers'
18 compensation or similar insurance, or automobile medical
19 payment insurance.

20 The commissioner of insurance is directed to adopt rules
21 pursuant to Code chapter 17A as necessary to administer the
22 provision.

23 The bill directs the department of human services to
24 adopt rules to provide for coverage of telehealth under the
25 Medicaid program. The rules are to provide that in-person
26 contact between a health care professional and a patient
27 is not required as a prerequisite for payment for services
28 appropriately provided through telehealth in accordance
29 with generally accepted health care practices and standards
30 prevailing in the applicable professional community at the
31 time the services are provided. Health care services provided
32 through in-person consultations or through telehealth are
33 to be treated as equivalent services for the purposes of
34 reimbursement.

35 The bill directs the department of public health, in

1 collaboration with the department of human services and the
2 insurance division of the department of commerce, to convene
3 and conduct a study regarding options for implementing
4 telehealth and telehealth coverage and reimbursement. The
5 department of public health is directed to submit a final
6 report of its findings and recommendations to the governor and
7 the general assembly by December 15, 2015.